REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-5 and 10-19 are presently pending in the present application. Claims 1 and 2 have been amended and Claims 16-19 have been added by way of the present Amendment. No new matter has been entered. (See, e.g., page 5, line 7, through page 6, line 5.)

Claims 6-9 have been canceled without prejudice or disclaimer, as being directed to non-elected, withdrawn inventions. The Applicants reserve the right to file one or more divisional applications directed to the withdrawn, non-elected inventions. The Applicants note that newly added Claims 16-19 recite subject matter from withdrawn, canceled Claims 6-9, respectively. The Applicants note that newly added Claims 16-19 depend from linking base Claim 1.

In the outstanding Official Action, Claims 1-5 and 10-15 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, line 5 was rejected as not having antecedent basis for the phrase "the fuel." Accordingly, the word "the" has been deleted. The recitation of the pump in Claim 1 was rejected. Claim 1 has been amended to clarify that pump delivers the mixture to an anode of the fuel cell, and the pump delivers air to a cathode of the fuel cell. (See, e.g., page 5, line 7, through page 6, line 5, as well as the figures of the various embodiments.) The group language in Claim 1 has been amended as suggested by the Examiner in the Official Action. Additionally, Claim 2 has been amended to clarify how the partition is configured to restrict heat transfer. Accordingly, the Applicants submit that all of the above indefiniteness rejections have been overcome.

The Official Action further rejected the last paragraph of Claim 1 reciting the partition, as being indefinite. Regarding this indefiniteness rejections, the Applicants respectfully traverse this rejections and submit that this limitation is definite. This paragraph recites that the partition both (1) partitions an interior of the casing into a first compartment and a second compartment, and (2) includes first, second, and third flow paths. Regarding the flow paths defined in Claim 1, the Applicants note that Claim 1 does not specify that each flow path must extend from one compartment to the other compartment. In fact, the partition advantageously combines both a partitioning of compartments with flow paths connecting various components. For example, the specification discloses an embodiment

How these aspects are carried out is described in the specification and the drawings, a manifold (41) that not only partitions an interior of a casing (15) into an upper compartment (45) and a lower compartment (43), but also provides a compact manifold structure that includes flow paths (53, 55, 57) embedded therein that connect various components. (See Figs. 4-6, and page 8, line 6, through page 9, line 13.) In this embodiment, path (53) connects fuel cell (9) to pump (7), path (55) connects mixing tank (5) to pump (7), and path (57) connects fuel cell (9) to mixing tank (5), as can be seen in Figs. 5 and 6. Thus, while the flow paths are provided in the partition, and the partition separates compartments, the flow paths do not necessarily extend from one compartment to another compartment. The flow paths as claimed and disclosed can either extend from one compartment to another compartment (see, e.g. paths 53 and 57 in Figures 4-6), or can extend between components in the same compartment (see, e.g. path 55 in Figures 4-6). Thus, the Applicants respectfully submit that the limitation recited in the last paragraph of Claim 1 is sufficiently definite to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention, as is evident from a review of the specification and drawings.

Accordingly, the Applicants respectfully request the withdrawal of the indefiniteness rejections.

Claims 1-4 and 13-15 were rejected under 35 U.S.C. §102(e) as being anticipated by Ozeki (U.S. Pub. No. 2004/0062962). Claims 1-5 and 10-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oga et al. (JP 05-290868) in view of Ozeki and further in view of Machida (JP 11-086891) and Schmidt (U.S. Patent No. 6,783,882). For the reasons discussed below, the Applicants traverse the art rejections.

A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference. As will be demonstrated below, the Ozeki reference clearly does not meet each and every limitation of independent Claim 1.

Claim 1 recites a fuel cell unit comprising, among other features, "a partition partitioning an interior of the casing into a first compartment housing the fuel cell and a second compartment, the partition comprising first, second and third flow paths, the first flow path connecting the mixing tank to the fuel cell, the second flow path connecting the fuel cell to the pump, the third flow path connecting the pump to the mixing tank." The Ozeki reference does not disclose the above limitations.

The Official Action cites feature (22) of the Ozeki reference for the teaching of the partition recited in Claim 1. However, the Ozeki reference refers to reference numeral "22" as a "fluid feed pump." (See, e.g. paragraphs [0027]-[0029].) The Ozeki reference does not disclose that the fluid feed pump (22) partitions the fuel cell (20) into compartments. Figures 2 and 3 depict the fluid feed pump (22) in a block diagram depictions. Figure 3 depicts the fluid feed pump (22) using broken lines that indicate that the term "fluid feed pump" is being used to collectively refer to a fuel tank (22a), a fuel pump (22b), a mixing tank (22c), and a fluid feed pump (22d). As noted above, the depictions in Figures 2 and 3 are block diagrams

(see, paragraphs [0014] and [0015] of the Ozeki reference), and thus the depiction of the fluid feed pump (22) is a black box representation thereof. Thus, the depiction of the fluid feed pump (22) in the Ozeki reference does not disclose that the fluid feed pump (22) includes a structural partition that partitions the fuel cell (20) into compartments, but rather is merely used to collectively refer several components (e.g., fuel tank (22a), fuel pump (22b), mixing tank (22c), and fluid feed pump (22d)).

Thus, the Ozeki reference fails to disclosure all of the limitations recited in independent Claim 1 of the present application. Accordingly, the Applicants respectfully request the withdrawal of the anticipation rejection of Claim 1, and the claims that depend therefrom.

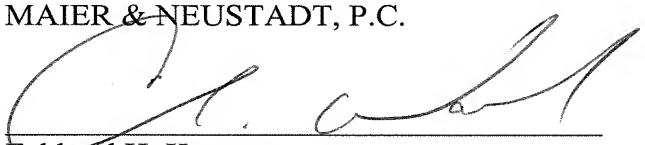
Regarding the obviousness rejection, the Applicants note that the rejection is based upon the citation of the Ozeki reference. Furthermore, the Applicants submit that the Ozeki reference is currently being used as prior art under 35 U.S.C. §102(e). 35 U.S.C. §103(c) states that patentability shall not be precluded if one of the references being relied upon is subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of title 35 of the United States Code, and if the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. The Applicants hereby provide a statement of common ownership that the Ozeki reference and the present application were both owned by KABUSHIKI KAISHA TOSHIBA or subject to an obligation of assignment to KABUSHIKI KAISHA TOSHIBA at the time the present invention was made.

Thus, the Applicants respectfully request the withdrawal of the obviousness rejection based upon the Ozeki reference.

Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Eckhard H. Kuesters
Attorney of Record
Registration No. 28,870

Christopher D. Ward
Registration No. 41,367

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

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